## REMARKS

This amendment is submitted with a request for three months extension, appropriate fee and a Request for Continued Examination in reply to the outstanding final Office Action dated July 15, 2005, and the Advisory Action dated December 6, 2005. Claims 1-37 and 39-92 currently stand rejected and are the only pending claims in the present application. Applicants have amended independent claims 1 and 11 and added new claims 92 and 93 to further define aspects of the present application. Claims 85-92 have been canceled, without prejudice, thus the rejections of claim 85-92 are now moot. No new matter has been added by the amendment.

Despite Applicants previously filing two Declarations under 37 C.F.R. § 1.131 swearing behind the Travis publication (hereinafter the "First Declaration"), the final Office Action and Advisory Action continue to reject Claims 1-3, 6, 7, 9, 10 and 75 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0010668 to Travis et al., in view of U.S. Patent Application Publication No. 2002/0156661 to Jones et al. The final Office Action and Advisory Action also continue to reject the remaining claims, namely Claims 4, 5, 8, 11-37, 39-74 and 76-92 under 35 U.S.C. §103(a) as being unpatentable over the Travis publication in view of the Jones publication, and further in view of various combinations of U.S. Patent No. 6,574,607 to Carter et al., Web site materials from Lastminute.com, prior art allegedly admitted in the specification and by applicant, and an Official Notice of facts outside the record which are alleged to be capable of instant and unquestionable demonstration of being "well known."

In view of the amendments, the remarks presented herein and the previously submitted Declarations, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.


### The Claimed Invention is Patentable over the Cited References

As also indicated above, the Official Action rejects Claims 1-37 and 39-92 as being unpatentable over the Travis application, in view of the Jones application, and further in view of various combinations of Web site materials from Lastminute.com, prior art admitted in the

specification, and an Official Notice of facts outside the record which are alleged to be capable of instant and unquestionable demonstration of being "well known."

### A. General Statement Concerning the Term Dynamically Generating Packages

Applicants note that the Office Action appears to overlook the term "dynamically generating ... packages," as is recited in the claims. In particular, Applicants have stated time and again that the prior art discloses packages that are pregenerated. The prior art does not teach or suggest dynamically generating the packages on the fly. It appears that the Office Action either equates pregeneration of packages with dynamic generation or does not believe that dynamic generation is patentable. In light of this issue, Applicants submit herewith secondary references that indicate the struggles of the travel industry to address the need for dynamic packaging.

For example, the April 2002 article entitled *Selling Vacation and Cruises: The Online/Offline Challenge Focus: Vacation Packagers* published by PhoCusWright Inc. (hereinafter "the PhoCusWright article") discloses the difference between pregenerated and dynamic packaging. (See Tab A). At page 2, right column, lines 6-16, the PhoCusWright article distinguishes dynamic packaging from pregenerated packages:

> Packagers unquestionably provide consumers with a value-added service. They also can customize trips, allowing consumers to mix and match components in order to create an itinerary that fits their interests. While most packages are pre-arranged, technology has furthered the sub-segment of the marketplace that is known as "dynamic packaging." Dynamic packaging is when the components of a package – such as air and hotel – are combined to create a "package" for the traveler "on the fly".

Further at page 5, right column, lines 39-48 indicates that most websites do not have dynamic

packaging. (Applicants note that Site-59 is owned by assignee of the current application.).

> Vacation packagers face other challenges, includ-
> ing the predilection toward "unbundled" travel.
> Consumers view the Internet, with its rich selec-
> tion of air, car and hotel offerings, as an opportu-
> nity to build their own vacation, exactly the way
> they want it. Some vacation packagers do offer
> customers the capability to custom design a vaca-
> tion, but they generally do this not through their
> Web sites, which don't have the capability for
> such dynamic packaging, but through the help of
> traditional travel agencies. Others, such as Site59
> and the Rail Europe Group's e-Vacations.com site,
> which includes EuroVacations.com and
> LatinAmericaVacations.com, already have unique
> technology that automates dynamic packaging.

Finally, at page 6, left column lines 43-50, the article indicates that most of the industry has not

adequately addressed the figure out how to do dynamic packaging.

> Finally, vacation packagers have to automate two
> crucial areas: procurement and distribution.
> Their aspiration is to access inventory online
> from the car rental company, the resort, the air-
> line and so on, assemble it dynamically and then
> sell it online. But the reality is that most vacation
> packagers still use fax and e-mail to work with
> suppliers and the telephone call center for distri-

Applicants also note that the article entitled *Building the Online Vacation Marketplace:*

*Survey Results* also discusses at pages 8-9 the difficulty of dynamic generation of packages. (See

Tab B). Further, the white paper entitled *2005 White Paper Series: Dynamic Packaging* further

discusses the emergence of dynamic packaging over more traditional pregenerated packaging

technologies. (See Tab C).

Applicants respectfully submit that these articles demonstrate the large difference

between pregenerated and dynamic packaging. Further, these articles, all written well after the

filing date of the application, indicate the difficulties that the industry was having in creating

dynamic packaging systems. Applicants therefore respectfully submit that these references

demonstrate the long felt need in the industry for dynamic packaging and thus the patentability

of the claimed invention.

### B.     Independent Claims 1 and 11

Applicants have amended independent Claims 1 and 11 to recite, *inter alia*, <u>creating a</u> <u>plurality of package templates and storing the templates in a database,</u> **each package template** **including** <u>at least one mandatory element schema having an</u> **associated required attribute and** **an associated affinity constraint.**

In contrast to the claimed invention of independent Claims 1 and 11, none of the cited references, individually or in combination, teach or suggest defining affinity space coordinates for a plurality of products and services. Also, none of the cited references teach or suggest creating a package template that includes **an associated required attribute and an associated** **affinity constraint,** as also recited by independent Claims 1 and 11. Further, none of the cited references teach or suggest comparing the affinity space coordinate for each item with the **associated required attribute and the associated affinity constraint** associated with the package template.

Applicants have attempted to explain in previous responses and in telephone interviews the basic differences between the claimed invention of Claims 1 and 11. Applicants are perplexed as to why the Office Action continues to generalize the prior art to cover the claims, instead of attempting to apply the references to the specific claim language of the claims. Applicants respectfully submit that the claimed invention is very different in terms of operation and result from that of the cited references.

The Office Action's rejection is a combination of the Travis and Jones applications and the Lastminute.com documents. The Travis application discloses an online targeted merchandising and marketing system that allows a user to purchase an entire experience (package), including commodities from a plurality of vendors, in a single transaction. As disclosed, the components of the experience that will be sold can be selected by readily identifying the most basic components (e.g., a tour package and an airline ticket for a vacation experience), and/or by identifying components via brainstorming sessions and focus group analysis. The selection of components may be further refined by cluster analysis. Before selecting the components of the experiences, however, the system can identify target market segments and buying intentions of consumers. Demographic profiling of members of the target

market can be used to identify archetypes associated with the customers. The system can then use the archetypes to match customers to particular experiences.

The Jones application discloses a goal-oriented travel planning system. As disclosed, the system processes travel requests based upon a user's travel destination goal. The system processes the travel requests by interactively determining, from the travel destination goal, a travel itinerary, which may include flight information, hotel information, and ground transportation, to ensure the user accomplishes the travel destination goal. The Lastminute.com Web site materials disclose a Web portal for searching for goods and services, such as flights, holidays, restaurants, hotels, gifts, entertainment, and auction items. As disclosed, Lastminute.com attempts to "encourage spontaneous, romantic and sometimes adventurous behavior by offering users the chance to live their dreams at unbeatable prices."

The Office Action argues that Travis-Jones-Lastminute.com combination renders obvious dynamic packaging of travel using templates and affinity space coordinates. Applicants respectfully disagree with this proposed combination. In particular, the Travis-Jones-Lastminute.com combination at best discloses static generation of packages based on market analysis, not dynamic generation of packages based on affinity coordinates. The Office Action alleges that the Travis application discloses creating a package template that includes an affinity space description. And while the Office Action correctly identifies that the Travis application does not disclose defining affinity space coordinates for the items for sale, or comparing the affinity space for each item with the affinity space description associated with the package template, the Office Action cites the Jones application for these elements of the claimed invention. In contrast to the Office Action's allegations, Applicants respectfully submit that the Travis application does not teach or suggest creating a package template that includes an affinity space description. Further, Applicants respectfully submit that the Jones application does not teach or suggest defining affinity space coordinates for the items for sale, or comparing the affinity space for each item with the affinity space description associated with the package template.

The Travis application discloses that packaged components can be selected by readily identifying the most basic components and/or by identifying components via brainstorming

sessions and focus group analysis, where the selection may be further refined by a cluster analysis. *See* paragraph 0018. The only specific basis given for selecting components of a package are demographic profiles, which may be used to identify archetypes associated with customers. The Jones system interactively builds an itinerary based upon a user's travel destination goal. The Jones application does not discuss that the data comprises affinity space coordinates or that the data have associated affinity space coordinates. The Lastminute.com Web site materials disclose a Web portal for searching for goods and services to encourage various types of behavior, including spontaneous, romantic and/or adventurous behavior. However, the Lastminute.com Web site materials do not disclose uses of affinity values to create packages.

In light of the above, at best, the Travis-Jones-Lastminute.com combination provides a system that pregenerates packages based on market research and brainstorming, which is altogether different than the invention of Claims 1 and 11. The attached Figures A& B illustrate the differences between the cited combination and the claimed invention. In Figure A, to provide packages to a user, the cited combination system would first generate a series of packages for marketing. Salespeople and marketers would first use knowledge of various travel options, such as hotels, restaurants, etc., along with market analysis, brainstorming sessions, focus group analysis, etc. to create various travel packages. (See step 100). These pregenerated packages are then placed on the web-site in categories based on an area of interest. (See step 110). Customers then access the website and select an area of interest, such as events, business, romantic weekend, etc. The customer then selects from the pregenerated packages a particular package for purchase. (See step 120). The system then proceeds to book the package for customer. (See step 130).
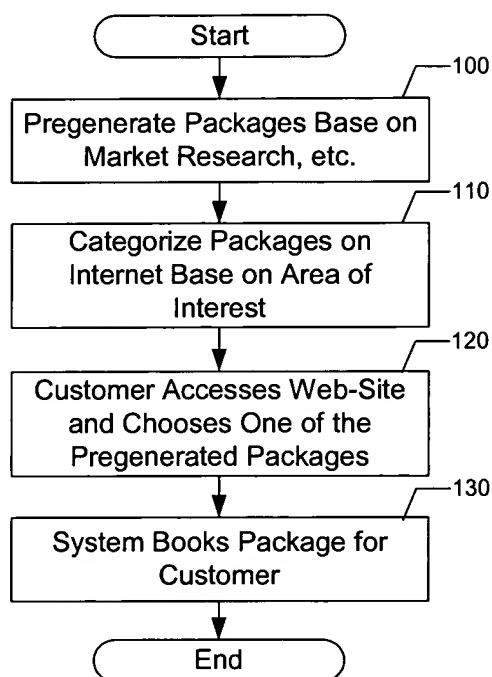
```
   ┌─────────────────────────┐
   (         Start           )
   └─────────────────────────┘
                │            ⌐100
                ▼
   ┌─────────────────────────┐
   │ Pregenerate Packages Base on│
   │   Market Research, etc.  │
   └─────────────────────────┘
                │            ⌐110
                ▼
   ┌─────────────────────────┐
   │  Categorize Packages on  │
   │  Internet Base on Area of│
   │         Interest         │
   └─────────────────────────┘
                │            ⌐120
                ▼
   ┌─────────────────────────┐
   │ Customer Accesses Web-Site│
   │  and Chooses One of the  │
   │  Pregenerated Packages   │
   └─────────────────────────┘
                │            ⌐130
                ▼
   ┌─────────────────────────┐
   │ System Books Package for │
   │        Customer          │
   └─────────────────────────┘
                │
                ▼
   ┌─────────────────────────┐
   (          End            )
   └─────────────────────────┘
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Figure A

```
   ┌─────────────────────────┐
   (         Start           )
   └─────────────────────────┘
                │            ⌐200
                ▼
   ┌─────────────────────────┐
   │  Define an Affiniity Space for│
   │   Each Item in a Database │
   └─────────────────────────┘
                │            ⌐210
                ▼
   ┌─────────────────────────┐
   │  Define Package Templates │
   │ Having Affinity Constraints│
   └─────────────────────────┘
                │            ⌐220
                ▼
   ┌─────────────────────────┐
   │ Customer Accesses Web-Site│
   │ and Generates Request Having│
   │  an Associated Affinity  │
   └─────────────────────────┘
                │            ⌐230
                ▼
   ┌─────────────────────────┐
   │ Selecting a Template Matching│
   │  the Requested Affinity  │
   └─────────────────────────┘
                │            ⌐240
                ▼
   ┌─────────────────────────┐
   │   Compares the Affinity  │
   │ Coordinates for Each Item to│
   │ the Affinity Constraints of the│
   │         Template         │
   └─────────────────────────┘
                │            ⌐250
                ▼
   ┌─────────────────────────┐
   │ Dynamically Generates A  │
   │  Package Based on the    │
   │       Comparison         │
   └─────────────────────────┘
                │
                ▼
   ┌─────────────────────────┐
   (          End            )
   └─────────────────────────┘
```
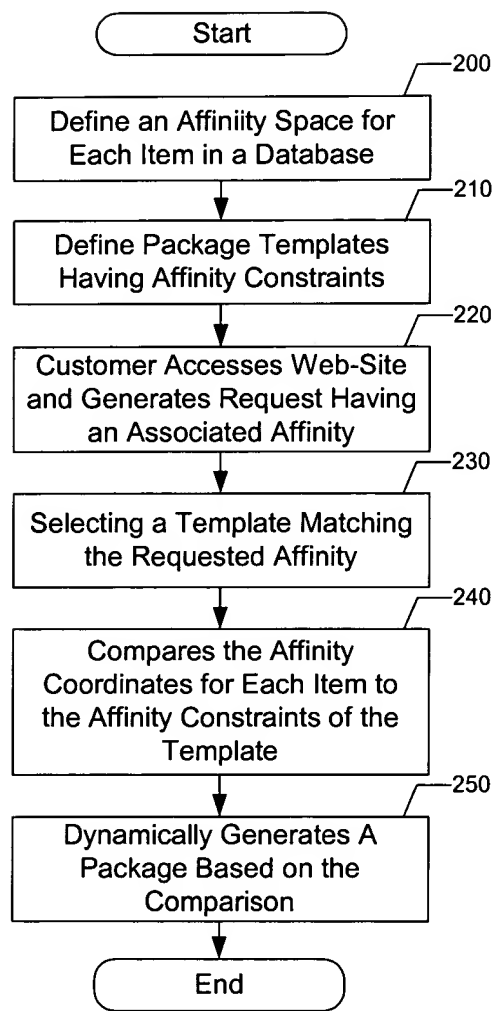
Figure B

The claimed invention operates quite differently from the cited combination. As illustrated in Figure B, the claimed invention initially begins with a database of various items. The system first defines an affinity coordinate for each item. (See step 200). Specifically, the claimed system defines a dimensioned affinity space. The space has axes defining various affinities, such as sports, romance, business, etc. Each item is given affinity coordinates within the space based on how the item is scored for each affinity. For example, if an item is a hotel near a sports arena and also has conference space, it may score a 9 for sports, 1 for romantic, and 6 for business. The item's coordinates in affinity space would be for example (9,1,6). By

defining each item in an affinity space, the affinity space coordinates can be used to generate packages dynamically.

The system further defines various package templates. (See step 210). Each package template is created for a specific affinity combination. For example, if the package is romantic based, it will include infinity constraints that when compared to items of interest will choose items that have relatively high romantic affinity values defined in their affinity coordinates.

Importantly, the claimed invention creates dynamic packages using the templates. Specifically, when a customer request is received, (see step 220), the system determines what affinity the customer is interested in. (See step 230). Using this customer chosen affinity, the system selects a package template that corresponds to the selected affinity. (See step 240). Using the package template, the system accesses the database of items and compares the affinity space coordinates for each of the plurality of items with the affinity constraints of the selected package template. (See step 250). The system thereby dynamically generates packages based on these comparisons. (See step 260).

As illustrated, the claimed invention provides several advantages over the cited combination. First, by defining affinity coordinates for each item, the system can categorize an item ahead of time. These affinity coordinates for each item can be used to quickly and dynamically generate packages. For example, the hotel described earlier near the arena with conference rooms had affinity coordinates of (9, 1, 6). These affinity coordinates, once generated, allow for easy comparison to package templates. If the user requests a sports affinity, the system can select a package template with a high sports affinity constraint, and the hotel will be readily determined as meeting the customer's request. Likewise, if the customer chooses a romantic trip, the hotel is easily discarded from the search.

Second, the dynamic nature of the system provides advantages over systems that use sterile, pregenerated packages. Specifically, item inventory is constantly being updated. Items once available are no longer available; item pricing may change; incentive programs may be added or removed, etc. By using the affinity coordinates for each item and the package templates, the claimed system can dynamically generate packages based on the customer request.

The generated packages will include the most up to date information on the items in the database.

Further, they allow for changes in inventory without disruption of the system. For example, let's say that a hotel having a large romantic affinity value is close to full occupancy for a give range of dates. When a first customer requests a romantic package, the package may likely include the hotel. However, once there is no more vacancy, the hotel is removed from inventory, such that when a subsequent customer makes the request, their package will not include the hotel. It will instead include another hotel having a high romantic affinity value, but still has occupancy for the given dates. In contrast, the combination proposed by the Office Action would have to manually reconfigure packages each time an items price changed, became no longer available, etc.

In light of the above, Applicants respectfully submit that the cited references, taken either individually or in combination, do not teach or suggest creation of affinity coordinates for items in an inventory, create package templates having affinity constraints, or dynamic generation of packages using the templates and affinity coordinates. As such, Applicants respectfully submit that Claims 1 and 11 are patentably distinct from all of the cited references, taken individually or in combination, and as such, the rejection of independent Claims 1 and 11 are overcome.

### C. *Independent Claims 21, 28, 29, 32, 58, 72, 73 and 74*

Independent Claims 21, 28, 32 and 58 stand rejected under 35 USC §103 as being unpatentable over Travis/Jones/Lastminute.com and further in view of Carter for the same reasons listed in the rejection of claims 1-10 and 75. The Examiner has asserted that the Declarations were insufficient to overcome the Travis reference, due to failure of Exhibits A and B to show that Applicants had possession of affinity space coordinates. **However, independent Claims 21, 28, 32 and 58 are not drawn to affinity space coordinates, but rather to attributes and/or qualities of a plurality of items (Claim 58) or descriptions of travel components (Claims 21, 28 and 32).** Consequently, since pages 20, 23, 25 and 31 of Exhibit A and pages 17 and 18 of Exhibit B show at least that the package segments are defined in terms of descriptions of qualities or attributes such as, for example, romantic, adventure, wacky, etc.,

Applicants have shown possession of the subject matter of independent claims 21, 28, 32 and 58 prior to the effective date of the Travis publication and the Travis publication must be removed as a reference, at least with respect to independent claims 21, 28, 32 and 58. Since none of the remaining cited references, taken either individually or in combination, teach or suggest the invention as claimed in independent claims 21, 28, 32 and 58, Applicants respectfully submit that the rejections of independent claims 21, 28, 32 and 58 are overcome. Claims 22-27, 29-31, 32-57, 59-71 and 77-81 depend either directly or indirectly from respective independent claims 21, 28, 32 and 58 and thus include all the recitations of their respective independent claims. Therefore, dependent claims 22-27, 29-31, 32-57, 59-71 and 77-81 are patentable for at least the same reasons as given above for independent claims 21, 28, 32 and 58. Accordingly, Applicants respectfully request reconsideration and allowance of claims 21-71 and 77-81 of the present application.

Additionally, independent Claims 21, 28, 29 and 32 recite a method and system of offering packages over a decentralized computer network, a method of dynamically creating packages, and a method for building packages, respectively. The methods and system include dynamically generating at least one travel package based on at least one travel package template and travel component descriptions. The travel packages are then offered to a consumer. In a manner similar to that described above with respect to independent Claims 1 and 11, none of the cited references, individually or in combination, teach or suggest a method including dynamically generating travel packages based upon travel package templates, as recited by independent Claims 21, 28, 29 and 32. Applicants therefore respectfully submit that the method and system of independent Claims 21 and 28, and the methods of independent Claims 29 and 32, are patentably distinct from all of the cited references, taken individually or in combination, for at least the reasons given above with respect to independent Claims 1 and 11. As such, Applicants also respectfully submit that the rejection of independent Claims 21, 28, 29 and 32 is overcome.

Independent Claims 58, 72, 73 and 74 recite a method of using a computer to develop and offer packages, a computer program product for offering items for sale, a dynamic package sales system and a dynamic package sales method. As recited, the methods, data structure and system

include a package schema or package model that includes mandatory element, or element schema, and optional element, or element schema. Independent Claim 58 further recites the step of determining, for each mandatory element schema, items that fit to develop candidate packages. Independent Claim 72 further recites that a package schema data structure further includes required attributes and matching criteria. Independent Claim 73 includes a computer arrangement that matches components with package models to develop complete packages, and independent Claim 74 includes matching components with package models. In this regard, each of independent Claims 58, 72, 73 and 74 utilize or recite package templates such that packages can be developed from the templates. And as described above with respect to independent Claims 1 and 11, none of the cited references, individually or in combination, teach or suggest package templates from which packages can be developed. Applicants therefore respectfully submit that the methods, data structure and system of independent Claims 58, 72, 73 and 74, are patentably distinct from all of the cited references, taken individually or in combination, for at least the reasons given above with respect to independent Claims 1 and 11. As such, Applicants also respectfully submit that the rejection of independent Claims 58, 72, 73 and 74 is overcome.

As indicated above, Applicants respectfully submit that independent Claims 1, 11, 28, 29, 32, 58 and 72-74 are patentably distinct from the cited references, taken individually or in combination. Dependent Claims 2-10, 12-27, 30, 31, 33-37 39-57 and 59-71 each depend, directly or indirectly, from one of independent Claims 1, 11, 28, 29, 32, 58 and 72-74, and as such, include the recitations of a respective independent claim. Applicants therefore respectfully submit that dependent Claims 2-10, 12-27, 30, 31, 33-37, 39-57 and 59-71 are patentably distinct from all of the cited references, taken individually or in combination, for at least the reasons given above with respect to the respective independent claim. As such, Applicants further respectfully submit that the rejections of dependent Claims 2-10, 12-27, 30, 31, 33-37, 39-57 and 59-71 are overcome.

## D.    *Dependent Claims 4 and 14*

In addition to the reasons described above, Applicants respectfully submit that various ones of the dependent claims recite additional features that are patentably distinct from all of the

cited references, taken individually or in combination. For example, dependent Claims 4 and 14 recite that an elicited consumer constraint includes customer mood, where a package template is selected or rejected based at least in part on the consumer constraint. Just as none of the cited references teach or suggest defining an affinity space coordinate or description for either items for sale or package templates, Applicants respectfully submit that none of the cited references teach or suggest that none of the cited references, taken individually or in combination, teach or suggest eliciting a consumer constraint including customer mood. The final Official Action alleges that the Lastminute.com Web site materials disclose that constraints include customer mood. Applicants respectfully submit, however, that the Lastminute.com Web site materials do not disclose customer mood as a constraint for selecting or rejecting a package template based at least in part on customer mood. The Lastminute.com Web site materials do disclose a mission statement of Lastminute.com to "encourage spontaneous, romantic and sometimes adventurous behavior by offering users the chance to live their dreams at unbeatable prices." The Web site materials <u>do not disclose, however, that the mission statement or the encouraged behaviors in the mission statement, operate as constraints in selecting or rejecting package templates</u>, as recited by dependent Claims 4 and 14.


### E. New Claims 92 and 93

Applicants have added new claims 92 and 93 to more particularly define aspects of the present invention. The new claims include no new matter and are fully supported by the specification and drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

## CONCLUSION

In view of the amended claims and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.
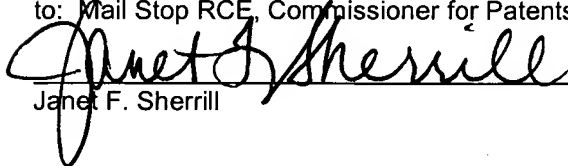
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